IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE TWENTY THIRD DAY OF SEPTEMBER
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION No. 20833 of 2004

Between:

P.Laxman Rao and 8 others

..... PETITIONERS

AND

The Chairman and Managing Director,

Singareni Collieries Company Ltd.,

Red Hills, Hyderabad and 5 others

.....RESPONDENTS

ORDER:

Seeking a Mandamus, declaring the action of the respondents
5 and 6 in carrying the constructions in the premises of Singareni Collieries Company Limited, without any permission and sanction, as illegal and arbitrary, and consequently direct the respondents 1 to 4 to remove the said illegally constructed commercial mulgies, the present writ petition is filed.

The case of the petitioners is that they are the employees of the Singareni Collieries Company Limited and they were allotted residential quarters. Quarter No.20 was allotted to the 5th respondent and after his retirement, the same quarter was allotted to the 6th respondent, who is no other than the nephew of the 5th respondent. There is drainage in between Quarter No.11 to 20, and 21 to 30. The Singareni Collieries did not provide septic tank facility to these quarters, and therefore, the filthy water was directly coming to the drainage and scavengers are used to enter into the drainage from the open place existed in between Quarter Nos.20 and 21. While so, the respondents 5 and 6, without any right or permission, are making constructions of commercial mulgies by encroaching the open place. Hence, the petitioners are constrained to file this writ petition.

A detailed counter affidavit has been filed by respondents 1 to 3, denying the averments made in the affidavit filed in support of the writ petition. The respondents stated that the 5th respondent filed a suit in O.S.No.75 of 2004 on the file of the Junior Civil Judge's Court, Asifabad in respect of the premises in question and obtained *ex parte* interim orders in I.A.No.190 of 2004 and started constructions on 21.09.2004 by dismantling the house bearing No.7-1-38 and encroached the company land of an extent of 116.22 sq.yards. Unless the civil suit is disposed of, the respondents could not take any steps against the respondents
5 and 6.

Heard the learned counsel for the petitioners and the learned standing counsel appearing for the respondents 1 to 3.

It is not in dispute that the 5th respondent has filed a civil suit in O.S.No.75 of 2004 on the file of the Court of the Junior Civil Judge, Asifabad and obtained *ex parte* temporary injunction restraining the authorities not to interfere with his possession. Respondents 1 to 3 admitted that this Court could issue orders for stoppage of illegal constructions over the company's land. The counsel for the petitioners seeks the same direction to be given to the respondents.

When a competent Court of Civil jurisdiction issued injunction and that order is not under challenge before any authority, the respondent company will bind by those orders. When injunction order is in force, even though respondents 1 to 3 admitted for issuance of orders for stoppage of illegal constructions, the same cannot be issued by this Court. Therefore, the remedy of the petitioners is to get themselves impleaded in the suit being aggrieved parties and prosecute the same.

In view of the facts and circumstances of the case, I deem it appropriate to dispose of the writ petition, with a direction to the petitioners to get themselves impleaded, being aggrieved parties, to the suit filed by the 5th respondent in O.S.No.75 of 2004 on the file of the court of the Junior Civil Judge, Asifabad. It is also made clear that the respondents 1 to 4 shall take necessary steps for disposal of the suit itself.

With the above observations, the Writ Petition is disposed of. No order as to costs.

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K.C. BHANU,J

Dated: 23.09.2005

Dsr